

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:19-CV-401-BO

LARON PARKS,

Plaintiff,

v.

BAR LOUIE,

Defendant.

)
)
)
)
)
)
)

ORDER

This cause comes before the Court on plaintiff's second motion for judgment due to failure to respond. [DE 17]. For the reasons that follow, plaintiff's motion is DENIED and this action is STAYED.

BACKGROUND

Plaintiff, proceeding in this matter *pro se*, filed his complaint on September 12, 2019, alleging a claim against defendant for employment discrimination in violation of Title VII of the Civil Rights Act of 1964. [DE 1]. Plaintiff filed a return of service and subsequently moved for judgment due to failure to respond. [DE 5, 6].

The Court ordered plaintiff to show cause why his complaint, which failed to allege a claim covered by Title VII, should not be dismissed. [DE 9]. Plaintiff responded, and the Court allowed plaintiff to file an amended complaint to assert a claim under the USERRA. [DE 11]. Plaintiff timely filed his amended complaint and appears to have effected service on defendant on January 13, 2020. [DE 12, 13]. On February 3, 2020, counsel for defendant appeared and filed a notice of suggestion of bankruptcy. [DE 14-16]. Plaintiff filed the instant motion for entry of judgment on February 4, 2020. [DE 17].

DISCUSSION

As the Court noted in its prior order, default judgment may not be considered prior to the entry of default. Default has not been entered against defendant, and the request for entry of judgment is therefore premature. Moreover, counsel for defendant has appeared on its behalf within twenty-one days from the date of service of the summons.

Counsel for defendant has also filed a suggestion of bankruptcy. 11 U.S.C. § 362(a)(1) requires that lawsuits against defendants who have declared bankruptcy must be stayed until the bankruptcy proceeding is resolved. Accordingly, this action is STAYED pending resolution of the bankruptcy proceeding. Counsel for defendant shall file a status update every ninety days to keep the Court apprised of the status of the bankruptcy case.

CONCLUSION

For the foregoing reasons, plaintiff's motion for judgment due to failure to respond [DE 17] is DENIED. This action is STAYED pursuant to 11 U.S.C. § 362 in light of defendant's bankruptcy filing. Counsel for defendant shall notify this Court every ninety days of the status of the bankruptcy case.

SO ORDERED, this 11 day of March, 2020.


TERRENCE W. BOYLE
CHIEF UNITED STATES DISTRICT JUDGE